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Introduction

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Introduction

by Professor Sidney Picker, Jr.*

I WOULD LIKE to welcome you to this conference of the Canada-United States Law Institute on the role of the Supreme Court in Canada and the United States. It is a pleasure to have you here. For those of you who are not familiar with the Institute, it is a joint creation of the University of Western Ontario Law School and the Case Western Reserve University School of Law. The bi-national program was developed by both schools for comparative and international law purposes.

It was not to be, and it is not, a foreign studies program at each school. It is a mutual program for enhancing the understanding of law in each nation. The directors and advisory board consist of people from both countries. Funding also comes from both nations. We started with the generous support of the governments of both Canada and the United States and with money from foundations on both sides of the border.

The Institute and its program are not keyed to the notion of making people experts in the other country's law. If Americans become more knowledgeable in Canadian law it is not undesirable, but that was not our intention. The idea was to get Americans and Canadians each to see their own legal processes in a different light. All of the programs of the Institute are designed to carry that notion forward. The programs developed include student exchange programs and a series of faculty exchanges so that comparative law may be interjected at each level.

The Institute has also sponsored research and conferences on legal subjects of interest to both countries. This conference is the first such conference for the 1979-1980 academic year. It marks an achievement of particular pleasure for those who have been involved in the Institute from the outset. When the Institute was founded in 1976 and even a year prior to its founding when we were still hoping for funds and trying to obtain support from foundation sources, we were asked what would be done in the way of conferences. The first suggestion put forward was to compare the institutions of the Supreme Court in each of the two countries. We began planning this conference more than two years ago and today it has come about.

The two countries are so similar in many respects, particularly in their British origin, and yet they are so dissimilar. One had a revolutionary experience, which left it with inherent governmental distrust and a system of checks and balances. The Supreme Court developed to contend with that. The other country's development followed an evolutionary process. It did not experience many of the frictions that its neighbor knew. Institutions developed along different lines, including the Supreme Court. Superficially, however, the Courts are similar. Nine people sit on each Court and each Court bears the same title.

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A comparison of the two beyond this seeming similarity should be of interest. Furthermore to do it not only with scholars of the Supreme Court, but with people who sit on the benches of the Courts in both countries, including the Supreme Court Justices, should be of even greater interest.

As we have structured the conference it is divided into four panels. There will be an introduction, giving the history and development of the Court, followed by a panel on the jurisdiction of the Court. We will proceed in the afternoon with the two additional panels, one on the role of the Court in shaping the relationship of the individual to the state and one on the operations and practices of the two Courts.

Let us begin with the Panel of Introduction on the History and Development of the Supreme Court in National Society. We open the Panel with Professor Russell of Canada. Professor Peter Russell is a professor of political economics at the University of Toronto. He is a graduate of both Toronto and Oxford and the author of a number of books on the Supreme Court of Canada.